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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,672	04/11/2005	William Peze	160.002	1607
7590 Jackson Patent Law Office Suite 100 211 N Union Street Alexandria, VA 22314			EXAMINER PHAN, JOSEPH T	
			ART UNIT 2614	PAPER NUMBER
			MAIL DATE 06/12/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/506,672

Applicant(s)

PEZE, WILLIAM

Examiner

JOSEPH T. PHAN

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Claim Objections

1. Claims 10 and 15 objected to because of the following informalities: line 2 recites “storing a storing a date and time” which has grammatical errors. It will be interpreted as “storing a date and time” in this action. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 lines 9-10 recites “..programmable by means of displacement keys and coded information for, the date and time being fixed, recording the..” which is unclear and confusing as it is not known if the ‘date and time being fixed’ refers to the aforementioned screen, coded information, or the changing dates and times in line 4 which causes indefiniteness.

The claim appears to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors(e.g. claim 1 is a run-on sentence with no semi-colons to separate limitations as in proper claim 6; the terms ‘the latter’ in line 6, ‘she should then do’ in line 7, ‘it’ in line 8). Lines 4-5 recites “housing having two faces’ (A face and B face), which characterizes the apparatus, however, item 8 in the B Face of Fig.2 and recited in claim 5 is not covered by the shutter recited in line 8 and causes confusion as to the limits of each face.

Claims 4-5 are further rejected based on dependency from claim 1.

Appropriate clarification and/or correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-4 rejected under 35 U.S.C. 103(a) as being unpatentable over Bellomo et al., Patent #6,504,908 in view of Grandbert et al., Patent #5,764760.**

Regarding claim 1, Bellomo, as best understood due to the 112 confusion above, teaches a portable recording apparatus including means enabling to be informed at programmed days and times of the reception of messages previously recorded(col.3 lines 4-15), this apparatus including a recorder and an internal clock activating delivery of messages at desired dates and times(col.3 lines 16-25 and lines 55-57), characterized in that it includes a housing having faces(Fig.1A), including a press button and a loudspeaker(30 and 50 Fig.1A and col.2 lines 50-56) so that when the latter emits an alarm, the person with a deficient memory can press on the press button in order to hear what she should then do(col.6 lines 1-31), and including a microphone(Fig.1A and col.3 lines 16-25; microphone is inherent) , indicating the date and time, programmable by means of displacement keys and coded information for, the date and time being fixed, recording the message by pressing on a key(col.3 lines 4-25), the internal clock of the apparatus enabling the activation at the desired time the alarm that will permit hearing of the message(col.6 line 65-col.7 line 5).

Bellomo does not expressly disclose: a face that is only accessible by opening a shutter including a screen.

Grandbert discloses a face that is only accessible by opening a shutter including a screen(3 and 13 Fig.1).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Bellomo's invention to include a shutter and a screen as in Grandbert's wireless phone(Fig.1 and col.2 lines 13-24).

One of ordinary skill in the art would have been motivated to do so as Bellomo's discloses that his reminder phone can be a wireless phone(col.3 lines 21-24) and wireless phones were well-known to have screens indicating the date and time. Incorporating a wireless phone would allow the user to move about freely as disclosed by Bellomo(col.3 lines 24-26).

Regarding claim 2, Bellomo in view of Grandbert teaches the apparatus according to claim 1, characterized in that it comprises a telephonic receiver enabling programming remotely by means of a telephone with an access code(*Bellomo col.2 line 65-col.3 line 3; access code is needed to program and could be simply the telephone number of the reminder phone*).

Regarding claim 3, Bellomo in view of Grandbert teaches the apparatus according to claim 1, characterized in that it has an SOS key activating playing of basic information about its owner and the persons to inform in case of accident(*col.6 lines 1-10 and lines 36-44; reset key is an SOS key to provide basic medication information of the owner*).

Regarding claim 4, Bellomo in view of Grandbert teaches the apparatus according to claim 1, characterized in that it operates on cells and/or on battery, the access door of which is

situated on A face(Bellomo col.3 lines 21-24 and Grandbert Fig.1; wireless phones inherently have cells and/or batteries).

5. Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Bellomo et al., Patent #6,504,908 A1 in view of Grandbert et al., Patent #5,764760 further in view of Kong, UK Patent # GB2098821 A.

Regarding claim 5, Bellomo in view of Grandbert teaches the apparatus according to claim 1.

Bellomo in view of Grandbert does not expressly disclose having laterally a knurled wheel for regulation of the intensity of sound of a loudspeaker.

Kong discloses a knurled wheel for adjusting a tuner(abstract and 24 Fig.1)

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Bellomo in view of Grandbert's wireless phone invention to include a knurled wheel as taught by Kong to adjust the sound of the loudspeaker. Having the wheel laterally instead of horizontally is merely a design choice.

One of ordinary skill in the art would have been motivated to do so as using small wheels for adjusting have been well-known and makes adjusting more accurate.

Claim Rejections - 35 USC § 102

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 6-7 and 10-12 rejected under 35 U.S.C. 102(e) as being anticipated by Bellomo et al., Patent #6,504,908.

Regarding claim 6, Bellomo teaches a method for operating with a portable apparatus

having a button, and a speaker(Fig.1A), the method comprising:
storing a voice message in the apparatus(col.3 lines 16-26);
storing a date and time in the apparatus, and associating the date and time with the voice message(col.3 lines 4-17);
running a clock in the apparatus and responsive to the clock, emitting an audio signal at the date and time stored in the storing step(12 Fig.1A, col.6 lines 1-17, and line 66-col.7 line 5); and
responsive to the button, sending the voice message to the speaker(col.6 lines 2-25).

Regarding claim 7, Bellomo teaches the method of claim 6 wherein the apparatus further includes a microphone, and the step of storing a voice message includes using the microphone(Fig.1A and col.3 lines 16-25).

Regarding claim 10, Bellomo teaches the method of claim 6 wherein the apparatus further includes a telephonic receiver, and the step of storing a date and time includes using the telephonic receiver(col.3 lines 21-23).

Regarding claim 11, Bellomo teaches the portable apparatus comprising: a button and a speaker(Fig.1A and col.2 lines 50-55); the means for storing a voice message in the apparatus(col.3 lines 15-25);
means for storing a date and time in the apparatus, and associating the date and time with the voice message(col.3 lines 4-25 and col.6 line 66-col.7 line 5);
a clock in the apparatus(12 Fig.1 and col.6 line 66-col.7 line 5);
means, responsive to the clock, for emitting an audio signal at the date and time stored by the storing means(Fig.1A and col.6 lines 4-28); and
means, responsive to the button, for sending the voice message to the speaker(Fig.1A and col.6

lines 4-28).

Regarding claim 12, Bellomo teaches the apparatus of claim 11 further including a microphone, wherein the means for storing a voice message uses the microphone(Fig.1A and col.3 lines 16-25).

Regarding claim 15, Bellomo teaches the apparatus of claim 10 wherein the apparatus further includes a telephonic receiver, wherein the means for storing a date and time includes uses the telephonic receiver(col.3 lines 21-23).

7. Claims 8-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Bellomo et al., Patent #6,504,908 A1 in view of Grandbert et al., Patent #5,764760.

Regarding claims 8-14, Bellomo teaches the method of claim 6 and apparatus of claim 11 wherein the apparatus further includes indicating the date and time, keys, microphone(Fig.1A) and the step and means for storing a date and time includes using the keys(Fig.1A, col.2 lines 64-67 and col.3 lines 4-15) and the step and means for storing a voice message includes using the microphone(Fig.1A and col.3 lines 16-25).

Bellomo does not expressly disclose a screen.

Grandbert discloses a screen (3 Fig.1).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Bellomo's invention to include a screen as in Grandbert's wireless phone(Fig.1 and col.2 lines 13-24).

One of ordinary skill in the art would have been motivated to do so as Bellomo's discloses that his reminder phone can be a wireless phone(col.3 lines 21-24) and wireless phones

were well-known to have screens indicating the date and time. Incorporating a wireless phone would allow the user to move about freely as disclosed by Bellomo(col.3 lines 24-26).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH T. PHAN whose telephone number is (571)272-7544. The examiner can normally be reached on Mon-Fri 9am-6:30pm EST, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph T Phan/
Examiner, Art Unit 2614